IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B. CRIMINAL MISC. PETITION NO. 1418/2007
(Dara Singh VS. State of Rajasthan)

DATE OF ORDER : 17/09/2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Dron Kaushik for the petitioner.
Mr. Ashok Upadhyaya, public prosecutor for the State

Issue notice for final disposal. Mr. Ashok Upadhyay, public prosecutor accepts the notice on behalf of respondent State. With the consent of learned counsel for the parties, the criminal misc. petition itself is heard and decided at the admission stage.

By the instant petition under section 482 Cr.P.C. the petitioner has challenged order dated 25.7.2007 passed by Chief Judicial Magistrate, Hanumangarh (for short 'the trial court' hereinafter), in criminal case No. 621/07 pertaining to FIR Case No. 326/2007 P.S. Hanumangarh Junction, for the offence under Sections 41, 42 of the Forest Act, whereby the trial court dismissed the application filed by the petitioner for releasing the Tractor Trolley bearing No. RJ-31-RA-1315 on Supardginama. Aggrieved by the impugned order, the petitioner has filed the instant petition.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner

that the petitioner is not an accused in the case and the vehicle alleged to have been found carrying green wood, may be in contravention of the provisions of the Forest Act and the petitioner being owner of the said vehicle and having the only source of his livelihood, would be deprived of the vehicle and the livelihood if the vehicle in question is not released in his favour. The learned counsel for the petitioner further submitted that the petitioner is ready to furnish even solvent security. He therefore, submits that the vehicle in question may be released in favour of the petitioner on furnishing solvent security bond.

In Sunderbhai Ambalal Desai Vs. State of Gujarat, JT 2002 (10) SC 80, the Hon'ble Supreme Court held that whatever be the situation, it is of no use to keep seized vehicles at the police station for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of the applications for return of such vehicles.

Having regard to the facts and circumstances of the case, in my view, the ends of justice would be met if the vehicle in question is released on Supardginama in favour of the petitioner on his furnishing personal and solvent security bonds.

In the result, the petition is allowed. The order

impugned dated 25.7.2007 is set aside and it is directed that the vehicle in question shall be released on Supardginama in favour of the petitioner on furnishing a personal bond in the sum of Rs.1 lac and one solvent security bond of like amount, to the satisfaction of the trial court to produce the vehicle in question as and when called upon to do so with the condition incorporated therein that he will maintain and keep the vehicle in the same condition and shall not alienate, alter or transfer the vehicle during pendency of the case as also shall not allow the vehicle to be used for transporting any forest produce in contravention of the Forest Act.

(H.R.PANWAR),J.

rp.